

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

(Attorney Docket № 14449US02)

In re: Jeyhan Karaoguz et al
Serial No. 10/675,903
Filed: September 30, 2003
For: Quality of Service Support In a
Media Exchange Network
Examiner: Tri H. Phan
Art Unit: 2616
Conf. No. 6132

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16-JUN-2008

REPLY BRIEF

MS: APPEAL BRIEF-PATENTS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR 41.41, the Appellant submits this Reply Brief in response to the Examiner's Answer mailed on April 15, 2008, **with a two-month period of reply expiring on June 16, 2008.** Claims 1-31 are pending in the present Application. The Appellant has responded to the Examiner in the Examiner's Answer, as found in the following Argument section.

As may be verified in his final Office Action dated 8/6/2007 ("Final Office Action"), the Examiner had previously rejected all pending claims 1-31. Claims 1-5, 7-15, 17-25, and 27-31 have been rejected under 35 U.S.C. 102(b) as being anticipated by Nakatsuyama, Takashi (US 6,253,246; hereinafter referred to as "Nakatsuyama"). See the Final Office Action at page 2. Claims 1-7, 10-17, 20-27, and 30-31 have been rejected under 35 U.S.C. 102(a) as being anticipated by Radford et al. (US 2002/0144276; hereinafter referred to as "Radford"). See *id.* at p. 5. Claims 6, 16, and 26 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Nakatsuyama. See *id.* at p. 8. Claims 8-9, 18-19, and 28-29 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Radford in view of Nakatsuyama. See *id.* at p. 9.

To aid the Board in identifying corresponding arguments, the Appellant has used the same headings in the Argument section of this Reply Brief as the headings found in the Appellant's corresponding Brief on Appeal. The Brief on Appeal has a date of deposit of January 22, 2008.

STATUS OF THE CLAIMS

Claims 1-31 are under final rejection. Pending claims 1-31 are the subject of this appeal.

ARGUMENT

The Appellant respectfully traverses the rejections of claims 1-31 at least based on the following arguments made in the Brief on Appeal.

I-A. Nakatsuyama Does Not Anticipate Independent Claims 1, 11, and 21

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

In response to Appellant's Brief on Appeal, the Examiner is using the following argument stated on pages 11-12 of the Examiner's Answer:

Regarding claim 1, Appellant mainly argued that Nakatsuyama does not teach "causing a display of a plurality of quality of service options corresponding to [said] at least one media file for selection by a remote user" (see pages 6-8). The examiner respectfully disagrees.

Nakatsuyama discloses (see fig. 2; col. 5, lines 39-67), wherein the user (claimed "remote user") first designates selected genre field 5 on the display screen (claimed "display") for the cursor moves to the content name input field 2 and wait for an input, and after the user enters the desired name and pushes the return key (claimed "media file for selection by a remote user"), the quality setting field 3 and transfer time setting field 4 will stand waiting for the desired setting via the scales 3a/4a and indexes 3b/4b (claimed "causing a display of a plurality of quality of service options"); wherein the quality and transfer time setting are for the selected desired name in the content name input field (claimed "display of a plurality of quality of service options corresponding to [said] at least one media file for selection by a remote user"). Therefore, Nakatsuyama does teach all the quoted claimed elements "causing a display of a plurality of quality of service options corresponding to [said] at least one media file for selection by a remote user".

The Appellant respectfully disagrees. The Examiner is referred to the following citation of Nakatsuyama:

In particular, **there will appear on the display screen 15a** of the monitor a content name input field 2 for entry of a content name, **a quality setting field 3 for setting of the quality of a requested data to be served from the data transmitter 20, a transfer time setting field 4 for setting of the transfer time of the requested data to be served from the data transmitter 20,** and a genre select field 5 for selection of the genre of the requested data to be served from the data transmitter 20, from the top toward the bottom of the screen, as shown in FIG. 2.

See Nakatsuyama at col. 5, lines 29-38 (emphasis added). In reference to Nakatsuyama's FIG. 2, the display screen 15a includes the quality of setting field 3 and the transfer time setting field 4. Clearly, the quality of setting field 3 and the transfer time setting field 4 appear before receiving any input specifying the media file for transfer. The Appellant points out that the relevant claim limitations here are (1) "receiving an input specifying at least one media file for transfer via a communication channel in the communication network" and (2) "causing a display of a plurality of quality of service options corresponding to said at least one media file for selection by a remote user." In other words, first, the media file is specified, and then the plurality of quality of service options are displayed. The Appellant points out that an important issue here is when the displaying of the quality of service options takes place. Clearly, Nakatsuyama performs the displaying first (by showing the display screen 15a at once), prior to specifying which file is to be transferred. Nakatsuyama does not disclose these limitations from Appellant's claim 1.

Accordingly, the Appellant respectfully submits that, at least for the reasons presented, claim 1 is not anticipated by Nakatsuyama. Since claims 11 and 21 have language similar to claim 1, and claims 1, 11, and 21 are rejected using the same argument, the Appellant respectfully submits that the claims 11 and 21 are also not anticipated by Nakatsuyama.

The Appellant reserves the right to argue additional reasons for the allowability of claims 1, 11, and 21.

I-B. Examiner's Response to Arguments in the Final Office Action

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal. In addition, the Examiner is referred to Section I-A above for a more detailed explanation of why Nakatsuyama does not anticipate Appellant's claims.

I-C. Rejection of Dependent Claims 2-5, 7-10, 12-15, 17-20, 22-25, and 27-31

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

The Appellant respectfully submits that claims 2-5, 7-10, 12-15, 17-20, 22-25, and 27-31 are allowable.

II-A. Radford Does Not Anticipate Independent Claims 1, 11, and 21

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

In response to Appellant's Brief on Appeal, the Examiner is using the following argument stated on pages 14-15 of the Examiner's Answer:

In Radford, after the request is made by the client for initial content file to the listing server for streaming audio/video content, e.g. "receiving an input specifying at least one media file for transfer", (see page 1, para [0008], lines 1-6; page 2, para [0018], lines 1-5; where the initial content file, e.g. "specifying media file for transfer", is set up with initial quality level through user interface program as disclosed in page 1, para [0008], lines 12-22; page 2, para [0019], lines 1-6); then

the user can re-request for changing time and quality level for the second data stream with same information content as the initially requested data content, e.g. "specified media file for transfer", but with different time and quality level, e.g. "causing a display of a plurality of quality of service options corresponding to said at least one media file for selection by a remote user" (see page 1, para [0009], lines 1-12; wherein time and quality options can be adjusted by user through the graphic user interface display as disclosed in fig. 2; page 1, para [0008], lines 13-22; page 4, para [0031], lines 1-9), wherein the request for changing time and quality level ("causing a display ...for selection by a remote user") occurs after the user requests for initial content file ('after specifying a media file'), but before the second data content file is transferred ('before the media file is transferred');

and when the listing server receives the user's re-request for time and quality adjusting, e.g. "receiving a quality of service selection ... services options" (see page 4, para [0031], lines 9-13); that is the listing server receives the user's re-request for changing time and quality level occurs after the user re-requests for changing time and quality level for the initial content file, but before the second data content file is transferred to user from the listing server;

and the second data content file with same information content as the initially requested data content, but with different time and quality level is delivered to client device.

The Appellant respectfully disagrees. The Examiner relies for support on ¶¶ 0008-0009 of Radford. As explained in the Brief on Appeal, Radford, at ¶ 0008, discloses that quality levels are adjusted **while the media file is streaming and it is being displayed** on the client device. In other words, Radford selects the media file, media file transfer is initiated and then quality of service options are displayed and selected. Even though Radford, in ¶ 0009, discloses that second streamed data content may be requested at the selected (or adjusted) quality of service options, the Examiner's argument is still deficient since **the second streamed data content is the same as the first streamed data content, i.e. the same file is being re-transmitted a second time with different quality of service options.** See Radford at ¶ 0009. Therefore, **the selecting of the media file has already occurred at the time of selecting the initial (first) streamed data content.** Furthermore, the quality of service for this first data content is adjusted during its streaming. In this regard, Radford allows quality levels to be adjusted at the client device while the media file is being displayed on the client device. Accordingly, Radford clearly does not disclose "causing a display of a plurality of quality of service options corresponding to said at least one media file for selection by a remote user" **after** specifying a media file for transfer, but **before** the media file is transferred.

Accordingly, the Appellant respectfully submits that, at least for the reasons presented, claim 1 is not anticipated by Radford. Since claims 11 and 21 have language similar to claim 1, and claims 1, 11, and 21 are rejected using the same

argument, the Appellant respectfully submits that the claims 11 and 21 are also not anticipated by Radford.

The Appellant reserves the right to argue additional reasons for the allowability of claims 1, 11, and 21.

II-B. Examiner's Response to Arguments in the Final Office Action

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal. In addition, the Examiner is referred to Section II-A above for a more detailed explanation of why Radford does not anticipate Appellant's claims.

II-C. Rejection of Dependent Claims 2-6, 10; 12-17, 20; 22-27, 30-31

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-6, 10, 12-17, 20, 22-27, and 30-31.

III. Claims 6, 16, and 26 Are Not Unpatentable Over Nakatsuyama

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 6, 16, and 26.

IV. Claims 8-9, 18-19, and 28-29 Are Not Unpatentable Over Radford In View of Nakatsuyama

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 8-9, 18-19, and 28-29.

CONCLUSION

The Appellant submits that the pending claims are allowable in all respects. Reversal of the Examiner's rejections for all the pending claims 1-31 and issuance of a patent on the Application are, therefore, requested from the Board.

The Commissioner is hereby authorized to charge additional fee(s) or credit overpayment(s) to the deposit account of McAndrews, Held & Malloy, Account № 13-0017.

Respectfully submitted,

Date: 16-JUN-2008

By: /Ognyan I. Beremski/

Ognyan Beremski, Reg. № 51,458
Attorney for Appellant

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
Telephone: (312) 775-8000
Facsimile: (312) 775 – 8100

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